

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 36277 of 2015 (H)

PETITIONER :

**ACP WORLD
SHAKKELA COMPLEX, CALTEX JUNCTION
KANNUR, PIN – 670 002 AND
HAVING ITS BRANCH OFFICE AT DREAM LAND TOWER
DOOR NO. 24/106 2D, KALOOR ROAD, MANKAVU
KOZHIKODE, PIN – 673 007
REPRESENTED BY ITS MANAGING PARTNER MR. T.P.KAMAL.**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST, WALAYAR
PIN – 678 624.**
- 2. THE COMMERCIAL TAX OFFICE (DUTY)
COMMERCIAL TAX CHECK POST, WALAYAR
PIN – 678 624.**

R1 & R2 BY GOVT. PLEADER SRI. R. RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE CERTIFICATE OF REGISTRATION.
- EXT.P1(a) COPY OF THE KVAT RETURN FOR THE MONTH SEPTEMBER 2015
DATED 1/11/2015.
- EXT.P2 COPY OF DECLARATION OF THE MANUFACTURER AND OWNER OF
THE GOODS DATED 30/10/2015.
- EXT.P2(a) COPY OF THE SELF-DECLARATION DATED 23-11-2015.
- EXT.P2(b) COPY OF THE DECLARATION DATED 21/11/2015 OF THE DISPLAY
FRAME CONTRACTOR FOR THE CONSIGNMENT.
- EXT.P2(c) COPY OF THE JJ FORM ISSUED BY THE AGENT OF THE OWNER OF
THE GOODS DATED 21-11-2015.
- EXT.P3 COPY OF THE OWNERSHIP CERTIFICATE IN FORM 16 DATED
23-11-2015 UPLOADED IN THE OFFICIAL WEBSITE OF THE
RESPONDENT.
- EXT.P4 COPY OF THE UPLOADED FORM 8F DATED 24-11-2015.
- EXT.P5 COPY OF THE NOTICE DATED 26-11-2015.
- EXT.P6 COPY OF THE REPLY DATED 27-11-2015.
- EXT.P7 COPY OF THE REPLY DATED 27-11-2015 ISSUED BY THE 2ND
RESPONDENT.,

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.36277 of 2015

Dated this the 1st day of December 2015

JUDGMENT

The petitioner is aggrieved by Ext.P5 detention notice issued to him detaining a consignment of Furniture parts that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P5 notice, it is seen that the objection of the respondents is essentially that the transportation of the goods was not accompanied by a valid invoice. The respondents therefore suspected a possible evasion of tax. Counsel for

the petitioner would submit that although there was no invoice that accompanied the transportation of goods, the said transportation was accompanied by a 8F declaration filed by the petitioner, as also a Form No.16, certificate of ownership, that was uploaded on the KVATIS Website on 23.11.2015, whereas, the detention was only on 26.11.2015. Taking note of the said submission of counsel for the petitioner, I direct the 1st respondent to release the goods and vehicle covered by Ext.P5 notice, to the petitioner, subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P5 notice, before the 1st respondent.

(ii) The 1st respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgment.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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